

74er
33792

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-219312.7 **DATE:** March 13, 1986
MATTER OF: Bruce Rahmani--Reconsideration

DIGEST:

Prior decisions affirming the dismissal of an untimely request for reconsideration are affirmed where protester has not shown that the prior decisions (or the dismissal) were based upon any errors of fact or law.

Bruce Rahmani (Rahmani) requests reconsideration of our decisions, Bruce Rahmani--Reconsideration, B-219312.5, Jan. 9, 1986, 86-1 C.P.D. ¶ _____, and Bruce Rahmani--Reconsideration, B-219312.6, Feb. 3, 1986, 86-1 C.P.D. ¶ _____.

We affirm our prior decisions.

Both decisions affirmed the dismissal of Rahmani's initial request for reconsideration of our November 22, 1985, dismissal of its protest as untimely. We found that Rahmani's first request for reconsideration was untimely filed with GAO on December 18, 1985, more than 10 working days after November 29, 1985, when Rahmani stated it received our dismissal of its initial protest. 4 C.F.R. § 21.12(b) (1985).

In Rahmani's last request for reconsideration, Rahmani argued that, although its first reconsideration request was time/date stamped (filed) in GAO on December 18, 1985, it was "properly mailed" on December 2, 1985, and, therefore, the failure of GAO to timely receive the request (by December 13, 1985) must be attributable to the government's negligence--possibly mishandling at GAO. We pointed out that the time/date stamp is accepted as evidence of the time of receipt of materials relating to protests at GAO absent affirmative evidence to the contrary to show actual earlier receipt by our Office. Ray Allen Manufacturing Co., Inc., B-208853, Sept. 21, 1982, 82-2 C.P.D. ¶ 255. We concluded that, although Rahmani argued that the late time/date stamp on its initial request for reconsideration must have been due to GAO mishandling, Rahmani had not offered any evidence

034828

to support its allegation of GAO mishandling. We thus affirmed our decision to dismiss Rahmani's request for reconsideration.

Rahmani asserts that we continue to misunderstand Rahmani's position. Rahmani contends that GAO had the December 2 request for reconsideration on time because Rahmani mailed it on December 2, notwithstanding the time/date stamp indicating GAO receipt on December 18. Rahmani essentially argues that we did not time/date its protest on the day our Office received it.

Rahmani provides no evidence to show that the December 2 correspondence was received at GAO timely. Under such circumstances, the only evidence of the document filing date we have is the time/date stamp which was affixed in the normal course of business. While Rahmani suggests that the only explanation for time/date stamping of the correspondence on December 18 is GAO mishandling, it is equally possible that the letter was delayed due to mishandling by the postal service or that it was not sent on the day it was dated. The point is that, in the absence of evidence to the contrary, our Office must rely on the time/date stamp as evidence of the time of receipt. While we recognize that this rule may appear too harsh to Rahmani, or "self-serving" as Rahmani asserts, we think that this procedure is consistent with our need to promptly and fairly carry out our bid protest function.

In that Rahmani has not established that our decisions were based upon any errors of fact or law, they are affirmed. Emerson Electric Co.--Reconsideration, B-220517.2, Nov. 26, 1985, 85-2 C.P.D. ¶ 607.

We note that this is the third request for reconsideration of our notice dismissing as untimely Rahmani's initial request for reconsideration. While we recognize that Rahmani remains dissatisfied with our decision, in our view, we have exhaustively explained our position and responded to Rahmani's contentions. Under these circumstances, further requests for reconsideration will not be addressed in the absence of the submission of factual information not previously considered in this matter.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel